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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,664

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Stefan Bachstein

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EXAMINER

MCCLELLAND, KIMBERLY KEIL

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

07/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/564,664</p>	<p>Applicant(s) BACHSTEIN, STEFAN</p>	
	<p>Examiner KIMBERLY K. MCCLELLAND</p>	<p>Art Unit 1791</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-9, 31 and 32.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

1. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Philip C Tucker/
Supervisory Patent Examiner, Art Unit 1791

/Kimberly K McClelland/
Examiner, Art Unit 1791

Continuation of 3. NOTE: The amendments to claims 1 and 5-9 alter the scope of the currently claimed invention, requiring further search and consideration. The amendment is not found to place the application in better form for appeal. Consequently, the amendment has not been entered.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 06/29/09 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., use in vehicle constructions for design of truck superstructures) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With respect to applicant's argument that Cohen does not disclose a continuous process foil, See Figure 1 A. Figure 1A of Cohen clearly discloses a process foil (20) which is continuous over band layer (16). Applicant has not addressed the disclosure of Figure 1 of illustrating a continuous process foil.

As to applicant's argument that layer 16 is not deposited on layer 20 in Cohen, examiner disagrees. Examiner notes the term "on" has a broader meaning than "direct intimate contact". Therefore, the band layer (16) is placed on the process foil (20), because the layer (16) is placed over (20). USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In *re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Therefore, the disclosure of Cohen reads on the currently claimed invention.

In response to applicant's assertion that the layer (16) of Cohen does not read on the currently claimed "substantially non-polymeric semi-manufactured product band", this argument is not persuasive. Firstly, "substantially" is a relative term. Secondly, Cohen clearly discloses layer 16 is a metal-containing foil (e.g. aluminum foil; See paragraph 0038), Which reads on the currently claimed "non-polymeric semi-manufactured product band". Consequently, this argument is not persuasive.

As to applicant's argument that Cohen does not disclose sealing, examiner disagrees. See Figure 1 A which clearly illustrates sealing the semi-manufactured product band (16) with respect to the process foils (20) by gluing (18) said semi-manufactured product band to said process foils (20) as noted in the final office action dated 06/29/09. Applicant has not addressed this disclosure, which reads on the currently claimed "sealing by gluing" language.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., not laminating layers 14 and 16) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Consequently, Cohen is not found to teach away from the currently claimed invention.

As to applicant's argument that there is no motivation to combine the equivalent hardening of a polymer layer taught by Tsujimoto for the hardened film of Cohen, examiner notes substitution of equivalents requires no express motivation. In *re Fount*, 213 USPQ 532 (CCPA 1982); In *re Siebentritt* 152, USPQ (CCPA 1967). Therefore, this argument is not persuasive.

Consequently, applicant's arguments are not persuasive and the rejections of claims 1-9 and 31-32 are maintained. .